

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

Complaint No. R2-2007-0079

**Mandatory Minimum Penalty
In the Matter of
City of Redwood City
850 Jefferson Avenue, Redwood City
San Mateo County**

Overview

This complaint assesses \$3,000 in Mandatory Minimum Penalties (MMPs) to the City of Redwood City (hereafter Discharger). The complaint is based on a finding of the Discharger's violations of Waste Discharge Requirements Order No. R2-2004-0055 (NPDES No. CAG912003) for the period between January 1, 2006, and September 30, 2007.

This MMP complaint is issued pursuant to Water Code Sections 13385(h)(1-2), 13385(i) and 13385.1. For a description of how MMPs are assessed, please see General Overview of MMP Calculations, attached.

A. Permit at the time of violations

On July 21, 2004, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) adopted Order No. R2-2004-0055 to regulate discharges of waste from facilities discharging extracted groundwater, treated to remove volatile organic carbons (VOCs). This permit is known as the VOC General Permit. The Discharger obtained coverage under the VOC General Permit on August 2, 2005.

B. Effluent Limitation

Order No. R2-2004-0055 specified the following effluent limitations:

Parameter	Effluent Limit
cis 1,2-dichloroethene (cis 1,2-DCE) daily maximum	5 µg/L
tetrachloroethene (PCE) daily maximum	1.6 µg/L

C. Water Board Staff's Consideration of Violations

This complaint addresses four violations, all of which were caused by breakthrough in the Discharger's treatment system. The Discharger sufficiently addressed the violations with follow-up sampling and refreshing its treatment system.

On January 24, 2007, the Discharger violated its cis-1,2-DCE and PCE effluent limits. As required by the permit, the Discharger accelerated monitoring. The samples collected on February 1, 2007, during the accelerated monitoring also violated the cis-1,2-DCE and PCE effluent limits.

To address the immediate problem, the Discharger diverted all discharge to the sanitary sewer. The Discharger changed the carbon in its granular activated carbon (GAC) units, and

it re-sampled on February 14, 2007, to ensure the treatment system was operating properly. The February 14, 2007, samples showed the Discharger had returned to compliance.

In sum, the Discharger took appropriate corrective actions to minimize reoccurrences, and therefore the minimum penalty is sufficient.

D. Assessment of penalties

- **Serious violations**

Cis 1,2-DCE and PCE are Group II pollutants. Serious violations for Group II pollutants are those that exceed the limitations by more than 20%. None of the four violations are serious, and therefore they are not subject to an MMP.

- **Fourth or greater within running 180-day period**

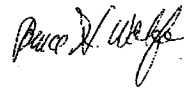
MMPs also apply to violations that are the fourth or greater consecutive violation within a running 180-day period. The fourth violation in this Complaint falls into this category, and therefore it is subject to a \$3,000 MMP.

- **Suspended MMP Amount**

For MMPs over \$9,000, the Discharger may spend all or a portion of the penalty on a supplemental environmental project (SEP) if approved by the Water Board. Because this penalty is less than \$9,000, an SEP is not an option.

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed MMPs in the total amount of \$3,000.
2. The Water Board will hold a hearing on this Complaint on March 11-12, 2008, unless the Discharger waives the right to a hearing by signing the included waiver and checks the appropriate box. By doing so, the Discharger agrees to pay the full penalty as stated above within 30 days after the signed waiver becomes effective.
3. The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
4. If a hearing is held, the Water Board may impose an administrative civil liability in the amount proposed or for a different amount, or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.



Digitally signed
by Bruce Wolfe
Date: 2008.01.18
14:43:18 -08'00'

Bruce H. Wolfe
Executive Officer

January 18, 2008

Attachments: Table 1, Violations
Waiver
General Overview of MMP Calculations

Table 1 - VIOLATIONS

Item	Date of Violation	Effluent Limitation Described	Effluent Limit	Reported Value	Type of Violations ¹	Penalty	Start of 180 Days ²
1	1/24/2007	cis 1,2-DCE effluent daily maximum (µg/L)	5	5.3	C1	0	7/29/2006
2	1/24/2007	tetrachloroethene (PCE) effluent daily maximum (µg/L)	1.6	1.9	C2	0	7/29/2006
3	2/01/2007	cis 1,2-DCE effluent daily maximum (µg/L)	5	5.2	C3	0	8/06/2006
4	2/01/2007	tetrachloroethene (PCE) effluent daily maximum (µg/L)	1.6	1.8	C4	\$3,000	8/06/2006
TOTAL						\$3,000	

¹ C=Count – The number that follows represents the number of violations the Discharger has had in the past 180 Days, including this violation. C4 or higher means that a penalty under Water Code §13385(i) applies.

S=Serious, which means that a penalty under Water Code §13385(h) applies.

² This column documents the start date for counting violations that have occurred within the past 180 days, for the Purpose of determining whether a penalty under Water Code §13385(i) applies.

WAIVER

If you waive your right to a hearing, the matter will be included on the agenda of a Water Board meeting but there will be no hearing on the matter, unless a) the Water Board staff receives significant public comment during the comment period, or b) the Water Board determines it will hold a hearing because it finds that new and significant information has been presented at the meeting that could not have been submitted during the public comment period. If you waive your right to a hearing but the Water Board holds a hearing under either of the above circumstances, you will have a right to testify at the hearing notwithstanding your waiver. Your waiver is due no later than February 19, 2008.

☐ Waiver of the right to a hearing and agreement to make payment in full.

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2007-0079 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the Water Board meeting for which this matter is placed on the agenda. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed unless the Water Board holds a hearing under either of the circumstances described above. If the Water Board holds such a hearing and imposes a civil liability, such amount shall be due 30 days from the date the Water Board adopts the order imposing the liability.

Name (print)

Signature

Date

Title/Organization

General Overview of Mandatory Minimum Penalty (MMP) Calculations

The Water Board is required by State law to assess MMPs for certain types of permit violations from point-source facilities. These complaints are issued by the Water Board Executive Officer, and the MMPs are finalized in a public hearing before the Water Board, unless the Discharger decides to waive its right to the hearing. This is an overview of the general process for determining which violations are subject to MMPs, and the amount of penalty the complaint will assess. This procedure is the same for all facilities to which the MMP laws apply.

State law requires a \$3,000 minimum penalty for all serious violations, and requires a \$3,000 penalty for any sort of violation, if it is the 4th or greater violation within a running 6-month period. Even though a specific violation may fit into both of the above categories, under the MMP laws, any one violation may only be assessed \$3,000.

A. State law requires a penalty for serious violations.

The Water Board must assess an MMP of \$3,000 for each serious violation, per Water Code Section 13385(h)(1). A "serious violation" is defined as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more, per Water Code Section 13385(h)(2). Pollutants are assigned to Group I or Group II by federal regulations, and the MMP complaint specifies to which group each violation belongs. The full lists of Group I and Group II violations are defined in Section 123.45 of Title 40 of the Code of Federal Regulations. Additionally, the late submittal (by 30 days or more) of monitoring reports is also considered a serious violation, per Water Code Section 13385.1. Each full 30-day increment a report is late counts as a violation.

B. State law requires a penalty for 4th or higher violation within last six months.

The Water Board must assess an MMP of \$3,000 for each violation, in a running six-month period, per Water Code Section 13385(i), if the Discharger does any of the following **four or more times**:

1. Violates a waste discharge requirement effluent limitation.
2. Fails to file a report pursuant to Section 13260.
3. Files an incomplete report pursuant to Section 13260.
4. Violates a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

The first three violations (meeting any of 1-4 above) occurring within a six month period do not trigger the \$3,000 penalty. Also, the running six-month period is counted backwards from each individual violation considered. For example, to determine whether a violation that occurred on August 1st was subject to a penalty, you would count how many other violations had occurred since February 1st of the same year. If there had been at least three other violations in that period, the August 1st violation would be subject to a \$3,000 penalty.